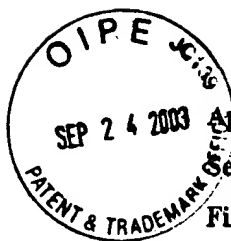


181/01332 A06



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael KOCHMAN, et al.
Serial Number: 09/552,586 Art Unit: 3764
Filed: April 19, 2000 Examiner: YU, J. R.
Title: Massager Providing Radiant Heat and Mechanical Manipulation

#14(N8)
SK
10-1-03

LETTER IN RESPONSE TO FINAL OFFICE ACTION

Mail Stop AF
Honorable Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

SEP 26 2003

TECHNOLOGY CENTER H3700

Sir:

The present letter is in response to the Final Office Action mailed June 25, 2003.

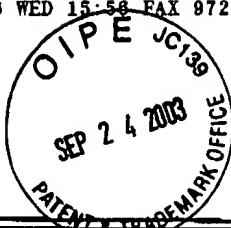
REMARKS

Claims 48-50 are pending. Claims 48-50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Blecker et al. (US 6,017,320) in view of Cheng (US 5,336,159).

In the final Office Action the Examiner once again repeats for a fourth time the Blecker-Cheng §103(a) rejection of claims 48-50 raised in the Office Actions of July 24, 2001, November 30, 2001 and January 7, 2003. In rebuttal of the Examiner's rejections, applicants have repeatedly pointed out that there is no motivation to combine the teachings of Blecker and Cheng to provide the invention of the present application.

In the present repetition of the Blecker-Cheng §103(a) rejection the Examiner acknowledges and states "that obviousness *can only be established* by combining or modifying the teachings of the prior art to produce the claimed invention *where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.*" (Italics added). The Examiner also refers the applicants to *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1998) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992) as examples indicative of the metes and bounds of the support required to establish an obviousness rejection.

The Examiner then notes, as repeatedly noted by the Examiner before, that "Blecker has suction chamber and massaging rollers..." and that a person of ordinary skill in the art "could



AF/3764

AMENDMENT TRANSMITTAL LETTER (Small Entity)			Docket No. 181/01332		
Applicant(s): Michael KOCHMAN, et al.					
Serial No. 09/552,586	Filing Date April 19, 2000	Examiner YU, J. R.	Group Art Unit 3764		
Invention: MASSAGER PROVIDING RADIANT HEAT AND MECHANICAL MANIPULATION					
<u>TO THE COMMISSIONER FOR PATENTS:</u>					
Transmitted herewith is an amendment in the above-identified application.					
<input checked="" type="checkbox"/> Small Entity status of this application has been established under 37 CFR 1.27 by a verified statement previously submitted. <input type="checkbox"/> A verified statement to establish Small Entity status under 37 FR 1.27 is enclosed.					
The fee has been calculated and is transmitted as shown below.					
CLAIMS AS AMENDED					
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	3	47	0 x	\$9.00	\$0.00
INDEP. CLAIMS	1	4	0 x	\$42.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00
<input checked="" type="checkbox"/> No additional fee is required for amendment. <input type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____ <input type="checkbox"/> A check in the amount of _____ to cover the filing fee is enclosed. <input checked="" type="checkbox"/> The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 03-3419 <input checked="" type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16. <input checked="" type="checkbox"/> Any patent application processing fees under 37 CFR 1.17.					
<i>Paul Fenster</i> Signature			Dated: September 24, 2003		
Paul FENSTER, Reg. No. 33,877 Roy N. Envall, Jr. c/o Anthony Castorina 2001 Jefferson Davis Highway, Suite 207 Arlington, VA 22202 Tel: (703) 415-1581			I certify that this document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. _____ Signature of Person Mailing Correspondence _____ Typed or Printed Name of Person Mailing Correspondence		
cc:					